

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ben Gilmore	Team: Squad #11	CCRB Case #: 201602052	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 03/07/2016 3:28 PM	Location of Incident: Park Hill Avenue and Osgood Avenue	Precinct: 120	18 Mo. SOL 9/7/2017	EO SOL 9/7/2017	
Date/Time CV Reported Mon, 03/07/2016 9:35 PM	CV Reported At: IAB	How CV Reported: Fax	Date/Time Received at CCRB Fri, 03/11/2016 10:38 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Rudy Anzalone	27189	945472	120 PCT
2. POM Sean Salvatore	12816	949944	120 PCT
3. LT John Ryan	00000	940685	120 PCT
4. An officer			120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT John Ryan	Abuse: Lieutenant John Ryan stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Rudy Anzalone	Force: Police Officer Rudy Anzalone used a chokehold against § 87(2)(b)	
C.POM Rudy Anzalone	Force: Police Officer Rudy Anzalone restricted § 87(2)(b)'s breathing.	
D.POM Rudy Anzalone	Abuse: Police Officer Rudy Anzalone threatened § 87(2)(b) with the use of force.	
E.POM Rudy Anzalone	Force: Police Officer Rudy Anzalone used physical force against § 87(2)(b)	
F.POM Sean Salvatore	Force: Police Officer Sean Salvatore pointed his gun at § 87(2)(b)	
G. An officer	Force: An officer pointed his gun at § 87(2)(b)	
H.POM Sean Salvatore	Discourtesy: Police Officer Sean Salvatore spoke discourteously to § 87(2)(b)	
I.LT John Ryan	Force: Lieutenant John Ryan used a taser against § 87(2)(b)	
J.POM Sean Salvatore	Abuse: Police Officer Sean Salvatore strip-searched § 87(2)(b)	

Case Summary

On March 7, 2016, Lieutenant John Ryan of the 120th Precinct faxed the Internal Affairs Bureau (IAB) Command Center to report that he discharged his taser in the course of the arrest of § 87(2)(b) (IAB original log #16-8200). The complaint was forwarded to the Civilian Complaint Review Board (CCRB), where it was received on March 11, 2016. There is no video footage of this incident.

On March 7, 2016, at approximately 3:28 p.m., § 87(2)(b) was driving a vehicle in the vicinity of Park Hill Avenue and Osgood Avenue in Staten Island, while his friend, § 87(2)(b) the sole passenger in the vehicle, sat in the front seat. § 87(2)(b)'s vehicle was pulled over by a team of three Anti-crime officers from the 120th Precinct: Lt. Ryan, PO Rudy Anzalone, and PO Sean Salvatore (**Allegation A**).

§ 87(2)(b) exited his vehicle while § 87(2)(b) remained seated in the vehicle. § 87(2)(b) testified that upon exiting his vehicle, he was handcuffed and brought to the rear of his vehicle, where PO Anzalone began to search him. § 87(2)(b) acknowledged to the CCRB that he had been concealing narcotics in his underwear since earlier that morning. § 87(2)(b) alleged that he turned to run away, but PO Anzalone stopped him by grabbing him around the neck, with the inside of PO Anzalone's elbow making contact with the front of his neck for five to ten seconds, all-the-while restricting § 87(2)(b)'s breathing (**Allegations B and C**). § 87(2)(b) alleged that PO Anzalone told him that he was lucky there were children around, otherwise he would shoot him in the head (**Allegation D**).

§ 87(2)(b) testified that he shouted to § 87(2)(b) to, "Do something to these motherfuckers," as he moved "like crazy," wiggling out of PO Anzalone's hold. § 87(2)(b) alleged that his hair was pulled with such force that a clump of his dreadlocks was removed from his head (**Allegation E**). § 87(2)(b) testified that PO Salvatore and an unidentified officer, who had arrived as backup, approached § 87(2)(b) in the front passenger's seat of the vehicle and pointed their guns at him (**Allegations F and G**). § 87(2)(b) alleged that PO Salvatore repeatedly told § 87(2)(b) "Don't fucking move," and then ordered him to "get the fuck out of the car" (**Allegation H**).

As § 87(2)(b) resisted arrest, Lt. Ryan shot a taser in § 87(2)(b)'s back, causing § 87(2)(b) to fall to the ground (**Allegation I**). § 87(2)(b) alleged that while lying on the ground, handcuffed, § 87(2)(b) (Allegation J).

§ 87(2)(b) was arrested as a result of the incident, and among other counts, he was charged with grand larceny in the fourth degree, making a terroristic threat, criminal possession of a controlled substance in the third degree, and resisting arrest (Board Review 01). § 87(2)(b)

§ 87(2)(b) was also arrested as a result of the incident (Board Review 02). Among other things, he was charged with criminal possession of a controlled substance in the third degree and

criminal possession of marijuana in the fourth degree. § 87(2)(b)
(Board Review 04).

This case was delayed due to the fact that it took nearly two months to locate and interview § 87(2)(b) from the time the complaint was received at the CCRB until he was interviewed by the CCRB.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation due to the arrests of § 87(2)(b) and § 87(2)(b)
- § 87(2)(b);§§ 86(1)(3)(4);§ 87(2)(c)
- § 87(2)(b)
- A Notice of Claim inquiry was submitted to the New York City Comptroller's Office on July 31, 2016 (Board Review 07). The results will be added to the case file upon receipt.

Civilian and Officer CCRB Histories

- This is the first CCRB case in which § 87(2)(b) is a participant (Board Review 08).
- § 87(2)(b)
- PO Anzalone has been a member-of-service for eight years, and he has been the subject of eight previous CCRB allegations, none of which were substantiated or § 87(2)(g)
- PO Salvatore has been a member-of-service for five years, and this is the first CCRB complaint made against him.
- Lt. Ryan has been a member-of-service for 10 years, and he has been the subject of 38 previous CCRB allegations, one of which was substantiated.
 - In CCRB 201410419, a 'vehicle stop' allegation was substantiated against Lt. Ryan. The CCRB recommended charges, but the NYPD disposition remains unknown.
 - This is the first CCRB case in which an allegation regarding the use of a taser was made against Lt. Ryan.

Potential Issues

- The CCRB was unable to establish contact with § 87(2)(b) a victim and witness of the incident, or § 87(2)(b)'s son, § 87(2)(b) § 87(2)(b) who § 87(2)(b) indicated may have witnessed a portion of the incident (see Investigative Actions for contact attempts).

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) alleged (Board Review 10) that PO Salvatore pulled his hair during the incident. PO Salvatore (Board Review 11), Lt. Ryan (Board Review 12), and PO Anzalone (Board Review 13) consistently confirmed that PO Salvatore interacted with § 87(2)(b) at the time of the alleged hair pull, but revealed that PO Anzalone was the

officer who pulled § 87(2)(b)'s hair. Each officer denied that PO Salvatore ever did this. For these reasons, Allegation D is pleaded against PO Anzalone as opposed to PO Salvatore.

- § 87(2)(b) alleged that PO Salvatore and an unidentified officer pointed their guns at § 87(2)(b). No officer interviewed indicated that any officer aside from PO Salvatore pointed their gun at § 87(2)(b). The investigation was unable to determine who, if anyone else, pointed their gun at § 87(2)(b). Allegation H is therefore pleaded against 'An officer.'

Allegations not pleaded

- Allegations of a frisk and search of § 87(2)(b) were not pleaded, because the arrest paperwork, UF49, and testimony of the NYPD supervisor on scene, Lt. Ryan, indicate that § 87(2)(b) was already under arrest when he was frisked and searched, and they were therefore incident to § 87(2)(b)'s arrest.

Allegation A – Abuse of Authority: Lieutenant John Ryan stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that § 87(2)(b)'s vehicle, which contained himself and § 87(2)(b) was stopped by Lt. Ryan solely for committing alleged moving violations. Lt. Ryan's two subordinates, PO Anzalone and PO Salvatore, were in the vehicle with Lt. Ryan during the vehicle stop.

§ 87(2)(b) denied committing any moving violations. Lt. Ryan testified that § 87(2)(b) failed to stop at a stop sign, and later, failed to signal while switching lanes. PO Anzalone testified that the only reason for pulling § 87(2)(b) over was that he failed to signal while he made a right-hand turn. PO Salvatore denied personally observing § 87(2)(b) commit any moving violations.

The narrative of § 87(2)(b)'s arrest report indicates that § 87(2)(b) failed to stop at a stop sign, but he was not charged with this reported violation.

§ 87(2)(g)

Allegation B – Force: Police Officer Rudy Anzalone used a chokehold against § 87(2)(b)

Allegation C – Force: Police Officer Rudy Anzalone restricted § 87(2)(b)'s breathing.

Allegation D – Abuse of Authority: Police Officer Rudy Anzalone threatened § 87(2)(b) with the use of force.

It is undisputed that § 87(2)(b) exited his vehicle after being pulled over for allegedly failing to stop at a stop sign. It is further undisputed that § 87(2)(b) attempted to flee on foot. § 87(2)(b) testified that he was already in handcuffs when he attempted to flee, but each officer interviewed indicated that § 87(2)(b) was not yet secured in handcuffs.

§ 87(2)(b) alleged that he was prevented from fleeing by PO Anzalone, who grabbed him around his neck. § 87(2)(b) alleged that PO Anzalone had him in a kind of "headlock" in which the inside of PO Anzalone's elbow was pressing against the front of § 87(2)(b)'s neck, restricting his breathing for the five to ten seconds that PO Anzalone maintained this hold. § 87(2)(b)

§ 87(2)(b) alleged that PO Anzalone told him he was lucky there were children in the area, otherwise he would shoot him in the head.

Lt. Ryan testified that § 87(2)(b) was stopped by officers grabbing his arms, and he and PO Salvatore both denied that any officer ever made contact with § 87(2)(b)'s neck or placed him in a headlock. Lt. Ryan and PO Salvatore both denied hearing PO Anzalone make the alleged threat of force.

[illegible]

Allegation F – Force: Police Officer Sean Salvatore pointed his gun at § 87(2)(b)

Allegation H – Discourtesy: Police Officer Sean Salvatore spoke discourteously to § 87(2)(b)

It is undisputed that while § 87(2)(b) was physically resisting outside of his vehicle, he shouted out to § 87(2)(b) who remained seated in the front passenger's seat. § 87(2)(b) testified that he shouted, "Do something to these motherfuckers." Lt. Ryan, PO Anzalone, and PO Salvatore each testified that § 87(2)(b) shouted to § 87(2)(b) "Shoot these motherfuckers." The officers' version of the alleged statement was also included in § 87(2)(b)'s arrest report and the UF49.

§ 87(2)(b) further alleged that as he pointed his gun at § 87(2)(b) PO Salvatore told him, “Don’t fucking move,” and then to “get the fuck out of the car.” PO Salvatore denied making the alleged discourteous statements and denied using profanity at any point during the incident. Lt. Ryan denied hearing PO Salvatore make either of the alleged statements. PO

Anzalone testified that he “might have” heard an officer say, “Don’t fucking move,” but that he did not recall this for certain. PO Anzalone denied hearing any officer use any other profanity during the incident, including, “Get the fuck out of the car.”

An officer may point his firearm at an individual whenever he has reason to fear for his own or another person’s safety Police Department v. Gliner, OATH Index No. 955/00 (Sept. 6, 2000) (Board Review 16). An officer may not use profanity toward a civilian, without a justifiable reason to do so, such as the need to maintain control or gain compliance during a stressful street encounter Police Department v. Carey, OATH Index No. 579/99 (Board Review 19).

§ 87(2)(g)

Allegation E – Force: Police Officer Rudy Anzalone used physical force against § 87(2)(b)

Allegation I – Force: Lieutenant John Ryan used a taser against § 87(2)(b)

It is undisputed that as § 87(2)(b) attempted to flee and physically resisted arrest, PO Anzalone pulled § 87(2)(b) s hair, ripping dreadlocks out of § 87(2)(b) s head. It is undisputed that Lt. Ryan fired a taser towards § 87(2)(b) as he was physically resisting, and that the prongs struck § 87(2)(b) in his back. § 87(2)(b) acknowledged that he was “moving like crazy,” trying to flee, and “wiggling” his body. Medical records indicate that § 87(2)(b) reported that he was resisting arrest when he was tased.

§ 87(2)(b) testified that he was already handcuffed when his hair was pulled and later when the taser was used against him. However, this was contradicted by every officer interviewed, each of whom indicated that § 87(2)(b) was handcuffed only after the taser was used against him. Lt. Ryan and PO Anzalone each testified that § 87(2)(b) made contact with each of their firearms in an attempt to remove them from their holsters. However, § 87(2)(b) denied touching any officer’s firearm, and § 87(2)(b) never successfully retrieved a firearm from any officer’s holster.

An officer must use the minimum necessary force NYPD Patrol Guide Procedure 203-11 (Board Review 17). A taser should only be used against a person who is actively physically resisting, exhibiting active physical aggression, or to prevent individuals from injuring themselves or other persons present NYPD Patrol Guide Procedure 212-117 (Board Review 18).

§ 87(2)(g)

§ 87(2)(g)

Allegation J – Abuse of Authority: Police Officer Sean Salvatore strip-searched § 87(2)(b)

§ 87(2)(b) alleged that after he was tased and handcuffed, while lying face-down on the ground, PO Salvatore § 87(2)(b), and attempted to retrieve narcotics from his underwear. § 87(2)(b) acknowledged that he was concealing narcotics in his underwear, and he believed that PO Anzalone had felt the narcotics previously during the incident.

However, PO Salvatore denied ever pulling down § 87(2)(b)'s pants and testified that he did not recall if narcotics were recovered from § 87(2)(b)'s person. Each officer interviewed denied seeing § 87(2)(b) s § 87(2)(b) at any point during the incident.

PO Anzalone testified that he or another officer—he did not recall who—retrieved narcotics from § 87(2)(b)'s underwear solely in the rear of an ambulance, without pulling down his pants. Lt. Ryan acknowledged that narcotics were recovered from § 87(2)(b)'s person, but he denied remembering from where they were recovered, how they were recovered, or who recovered them.

§ 87(2)(g)

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date